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7 THE GAP, INC., a/k/a, GAP, INC., GAP INTERNATIONAL  
SALES, INC., BANANA REPUBLIC, LLC, AND OLD NAVY,  
8 LLC

9 UNITED STATES DISTRICT COURT  
10 NORTHERN DISTRICT OF CALIFORNIA  
11 SAN FRANCISCO DIVISION

12  
13 ROOTS READY MADE GARMENTS CO.  
W.L.L.,

14 Plaintiff,

15 v.

16 THE GAP, INC., a/k/a, GAP, INC., GAP  
17 INTERNATIONAL SALES, INC., BANANA  
REPUBLIC, LLC, AND OLD NAVY, LLC

18 Defendants.

Case No. C 07-03363 CRB

**DECLARATION OF DARALYN J. DURIE  
IN SUPPORT OF DEFENDANTS'  
OPPOSITION TO ROOTS' MOTION IN  
LIMINE NO. 2 TO PRECLUDE GAP  
FROM ASSERTING AT TRIAL THAT  
ROOTS WAS NOT AUTHORIZED TO  
RESELL GAP MERCHANDISE TO  
OTHER FACILITIES**

Date: September 26, 2008  
Time: 2:30 p.m.  
Dept: 8  
Judge: Honorable Charles R. Breyer

**Trial Date: October 6, 2008**

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23 PUBLIC VERSION  
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1 I, DARALYN J. DURIE, declare and say that:

2 1. I am an attorney licensed to practice law in the State of California and before this  
3 Court and am employed by Keker & Van Nest, LLP, counsel for defendants The Gap, Inc., a/k/a,  
4 Gap, Inc., Gap International Sales, Inc., Banana Republic, LLC, and Old Navy, LLC  
5 (collectively "Gap").

6 2. I have knowledge of the facts set forth herein, and if called to testify as a witness  
7 thereto, could do so competently under oath.

8 3. Attached hereto as Exhibit A are true and correct copies of pages from the  
9 deposition of James Bell, dated June 10, 2008.

10 4. Attached hereto as Exhibit B is a true and correct copy of a page from the  
11 deposition of Jon Ehlen, dated July 15, 2008.

12 5. Attached hereto as Exhibit C is a true and correct copy of a page from the  
13 deposition of Ron Young, dated June 5, 2008.

14

15 I declare under penalty of perjury under the laws of the United States that the foregoing is  
16 true and correct and that this declaration was executed on September 18, 2008 in San Francisco,  
17 California.

18

/s/ Daralyn J. Durie  
DARALYN J. DURIE

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# **EXHIBIT A**

EXHIBIT  
FILED  
UNDER SEAL

# **EXHIBIT B**

1  
2 UNITED STATES DISTRICT COURT  
3 NORTHERN DISTRICT OF CALIFORNIA  
(SAN FRANCISCO DIVISION)

4 ----- X  
ROOTS READY MADE GARMENTS CO. )  
W.L.L. )  
5 )  
Plaintiff, )  
6 )  
-against- )  
7 ) Index No.  
 ) C 07 3363  
8 THE GAP INC., ET AL. )  
 )  
9 Defendant. )  
----- X

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15  
16 VIDEOTAPED DEPOSITION OF JON EHLEN  
New York, New York  
17 July 15, 2008  
18  
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21  
22  
23

24 Reported by:  
Judi Johnson, RPR, CRR, CLR  
25 Job No.: 17735

1 JON EHLEN

2 A Yes.

3 Q The bottom E-mail, Mr. Larsen writes,  
4 "Hi Jon." I'm quoting. "Thanks for the  
5 authorized retailer approval for Egypt. Since  
6 its wording has changed from the previous one, I  
7 just need to understand if this allows Roots to  
8 sell directly to the authorized retailer or if  
9 it has to go through Gabana. Both ways are  
10 okay, just need clarification."

11 Did you provide an answer to that  
12 question?

13 A I don't know if I provided an answer  
14 to his question, but I provided an answer to the  
15 E-mail, I guess, in the last one that was sent  
16 on May 6th, 2005, where I say, "While we do not  
17 recognize Roots as a distributor, we understand  
18 that" it is -- "that as an approved retailer of  
19 excess inventory, they will be reselling said  
20 inventory."

21 Q What did you mean by that?

22 A That I understood them as a -- that  
23 they had been approved as a retailer and not a  
24 distributor.

25 Q And when you said "that they will be

PROCEEDINGS

C E R T I F I C A T E

I, JUDI JOHNSON, RPR, CRR, CLR, a Notary Public in  
and for the State of New York, do hereby certify:

THAT the witness whose testimony is hereinbefore  
set forth, was duly sworn by me; and

THAT the within transcript is a true record  
of the testimony given by said witness. I further  
certify that I am not related, either by blood or  
marriage, to any of the parties to this action; and

THAT I am in no way interested in the outcome of  
this matter.

IN WITNESS WHEREOF, I have hereunto set  
my hand this 25th day of July, 2008.

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JUDI JOHNSON, RPR, CRR, CLR



# **EXHIBIT C**

EXHIBIT  
FILED  
UNDER SEAL